

REMARKS

This Amendment After Final is made in response to the final Office Action dated February 16, 2007 and the Advisory Action dated April 27, 2007. The Examiner indicated in the Advisory Action that the previously submitted Amendment After Final raised new issues which required further consideration and/or an additional search. Accordingly, Applicants have filed this revised Amendment After Final with a Request for Continued Examination (RCE). Claims 94-107 are pending in the application. By this Amendment, claims 94, 101 and 105 have been amended to clarify that the central region and filter edge are made from a filter membrane. New claims 112 and 113 are being presented for consideration. Favorable reconsideration is respectfully requested.

Claims 94-107 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,800,457 to Gelbfish (the “Gelbfish patent”). Applicants note that the presently claimed invention is directed to a filter element, an embodiment of which is shown in Figures 41 and 42 of the application. The term "filter element," as used in the present claims and the specification, is directed to the membrane portion of the embolic protection device which captures the embolic debris released in the body vessel. Applicants have amended claims 94, 101 and 105 to specify that the central region and filter edge forming the filter element are made from a filter membrane. Applicants have amended these claims to avoid any possible confusion and these amendments were not made in order to distinguish the presently claimed invention over the prior art.

Applicants note that the only portion of the filter device disclosed in the Gelbfish patent which constitute a filter membrane is the element referred to as a web or film 166 or membrane 172. The film 166 and membrane 172 do not include a plurality of openings adapted to allow blood to flow therethrough while capturing embolic debris larger than the size of the openings. Rather, the film 166 and membrane 172 only have a large single opening connected to a debris removal instrument which utilizes suction to draw the collected material out of the patient. Accordingly, the Gelbfish patent fails to disclose the structure of the pending claims. Applicants respectfully request the Examiner to withdraw the Gelbfish patent as an anticipatory reference.

New claims 112 and 113 are believed to be patentable over the art of record. Favorable allowance of these new claims is respectfully requested.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

The commissioner is authorized to charge any deficiencies in fees or credit any overpayments to our Deposit Account No. 06-2425.

Respectfully submitted,

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